

Department of the Navy, DoD

§ 701.54

actual direct cost of reproducing the material, including the wage of the person doing the work. Audiovisual materials provided to a requester need not be in reproducible format or quality.

(f) *Other records.* Direct search and duplication cost for any record not described in this section shall be computed in the manner described for audiovisual documentary material.

(g) *Costs for special services.* Complying with requests for special services is at the discretion of the DON activity. Neither the FOIA nor its fee structure cover these kinds of services. Therefore, DON activities may recover the costs of special services requested by the requester after agreement has been obtained in writing from the requester to pay for such fees as certifying that records are true copies, sending records by special methods such as express mail, etc.

§ 701.54 Collection of fees and fee rates for technical data.

(a) Technical data, other than technical data that discloses critical technology with military or space application, if required to be released under the FOIA, shall be released after the person requesting such technical data pays all reasonable costs attributed to search, duplication and review of the records to be released. Technical data, as used in this section, means recorded information, regardless of the form or method of the recording of a scientific or technical nature (including computer software documentation). This term does not include computer software, or data incidental to contract administration, such as financial and/or management information.

(b) DON activities shall retain the amounts received by such a release, and it shall be merged with and available for the same purpose and the same time period as the appropriation from which the costs were incurred in complying with request. All reasonable costs as used in this sense are the full costs to the Federal Government of rendering the service, or fair market value of the service, whichever is higher. Fair market value shall be determined in accordance with commercial rates in the local geographical area. In

the absence of a known market value, charges shall be based on recovery of full costs to the Federal Government. The full costs shall include all direct and indirect costs to conduct the search and to duplicate the records responsive to the request. This cost is to be differentiated from the direct costs allowable under information released under FOIA.

(c) *Waiver.* DON activities shall waive the payment of costs required in paragraph (a) of this section which are greater than the costs that would be required for release of this same information under the FOIA if:

(1) The request is made by a citizen of the United States or a United States corporation and such citizen or corporation certifies that the technical data requested is required to enable it to submit an offer or determine whether it is capable of submitting an offer to provide the product to which the technical data relates to the United States or a contractor with the United States. However, DON activities may require the citizen or corporation to pay a deposit in an amount equal to not more than the cost of complying with the request, which will be refunded upon submission of an offer by the citizen or corporation;

(2) The release of technical data is requested in order to comply with the terms of an international agreement; or,

(3) The DON activity determines in accordance with § 701.48 that such a waiver is in the interest of the United States.

(d) Fee rates—(1) Manual search.

Type	Grade	Hourly rate
Clerical	E9/GS8 and below	\$13.25
Clerical (Minimum Charge)	8.30
Professional	01 to 06/GS9 to GS15	(**)
Executive	07/GS16/ES-1 and above	(**)

** Rate to be established at actual hourly rate prior to search. A minimum charge will be established at ½ Minimum Charge)

(2) Computer search is based on the total cost of the central processing unit, input-output devices, and memory capacity of the actual computer configuration. The wage (based upon the scale for manual search) for the computer operator and/or programmer

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determining how to conduct, and subsequently executing the search will be recorded as part of the computer search.

(3) *Duplication.*

Type	Cost
Aerial photograph, maps, specifications, permits, charts, blueprints, and other technical engineering documents	\$2.50
Engineering data (microfilm):	
Aperture cards:	
Silver duplicate negative, per card75
When key punched and verified, per card85
Diazo duplicate negative, per card65
When key punched and verified, per card75
35mm roll film, per frame50
16mm roll film, per frame45
Paper prints (engineering drawings), each	1.50
Paper reprints of microfilm indices, each10

(4) *Review time.*

Type	Grade	Hourly rate
Clerical	E9/GS8 and below	\$13.25
Clerical Minimum Charge	E9/GS8 and below	8.30
Professional	01 to 06/GS9 to GS15	(**)
Executive	07/GS16/ES1 or higher	(**)

** Rate to be established at actual hourly rate prior to search. (A minimum charge will be established at ½ Minimum Charge)

(5) *Other technical data records.* Charges for any additional services not specifically provided in paragraph (d) of this section, consistent with Volume 11A of DoD 7000.14-R (NOTAL) shall be made by DON activities at the following rates:

Minimum charge for office copy up to six images—\$3.50
Each additional image—\$.10
Each typewritten page—\$3.50
Certification and validation with seal, each—\$5.20
Hand-drawn plots and sketches, each hour or fraction Thereof—\$12.00

§ 701.55 Processing FOIA fee remittances.

(a) Payments for FOIA charges, less fees assessed for technical data or by a Working Capital Fund or a Non-Appropriated Fund (NAF) activity, shall be made payable to the U.S. Treasurer and deposited in Receipt Account Number 172419.1203.

(b) Payments for fees assessed for technical data shall be made payable to the DON activity that incurred the

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costs and will be deposited directly into the accounting line item from which the costs were incurred.

(c) Payments for fees assessed by Working Capital Fund or Non-Appropriated Fund (NAF) activities shall be made payable to the DON activity and deposited directly into their account.

Subpart D—FOIA Exemptions

§ 701.56 Background.

The FOIA is a disclosure statute whose goal is an informed citizenry. Accordingly, records are considered to be releasable, unless they contain information that qualifies for withholding under one or more of the nine FOIA exemptions. The exemptions are identified as 5 U.S.C. 552 (b)(1) through (b)(9).

§ 701.57 Ground rules.

(a) *Identity of requester.* In applying exemptions, the identity of the requester and the purpose for which the record is sought are irrelevant with the exception that an exemption may not be invoked where the particular interest to be protected is the requester's interest. However, if the subject of the record is the requester for the record and the record is contained in a Privacy Act system of records, it may only be denied to the requester if withholding is both authorized in systems notice and by a FOIA exemption.

(b) *Reasonably segregable.* Even though a document may contain information which qualifies for withholding under one or more FOIA exemptions, FOIA requires that all “reasonably segregable” information be provided to the requester, unless the segregated information would have no meaning. In other words, redaction is not required when it would reduce the balance of the text to unintelligible gibberish.

(c) *Discretionary release.* A discretionary release of a record to one requester shall prevent the withholding of the same record under a FOIA exemption if the record is subsequently requested by someone else. However, a FOIA exemption may be invoked to withhold information that is similar or related that has been the subject of a discretionary release.